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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,891

09/30/2003

Vaclav O. Podany

16334Z (ETH-5075CIP)

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12/05/2006

SCULLY SCOTT MURPHY & PRESSER, PC  
400 GARDEN CITY PLAZA  
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GARDEN CITY, NY 11530

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10-675891

EXAMINER
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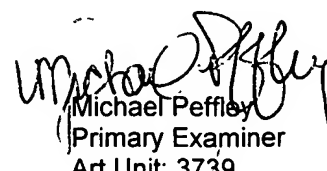
ART UNIT	PAPER
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Commissioner for Patents

  
Michael Peffley  
Primary Examiner  
Art Unit: 3739

***Election by Original Presentation***

Newly amended claims 1 and 11 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims have been amended to recite features only shown in the non-elected embodiment of Figure 2. A shift in election is not permissible with the filing of an RCE.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 15, 7, 8 and 11-19 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Non-Responsive Amendment***

The reply filed on August 21, 2006, and entered with the RCE of October 27, 2006, is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the amendment to the claims have resulted in an impermissible shift in inventions resulting in the withdrawal of all claims as being directed to an invention non-elected by original presentation. Accordingly, there are no claims left for examination. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

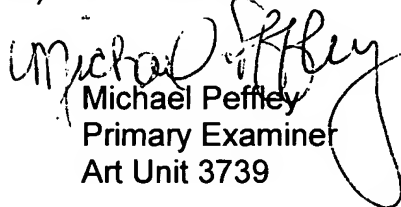
***Response to Arguments***

Applicant's arguments filed August 21, 2006, and entered with the RCE of October 27, 2006, have been fully considered but they are not persuasive. The examiner maintains that claim 11 is not generic, particularly now that it claims an air gap reflector which is clearly not part of the embodiment of Figures 7 and 8. The examiner further maintains that the specification fails to enable one of ordinary skill in the art to locate the ultrasonic transducer assembly of Figure 2 on the jaw assembly of the elected embodiment of Figures 7a and 7b.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (571) 272-4770. The examiner can normally be reached on Mon-Fri from 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Michael Peffley  
Primary Examiner  
Art Unit 3739

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November 27, 2006